

Minutes: Senate State Affairs

Wednesday, February 18, 2026 3:00 PM

Roll Call

Present: Sen. Deibert, Sen. Jensen (Kevin), Sen. Karr, Sen. Kolbeck (Steve),
Sen. Larson, Sen. Pischke, Sen. Voight, Sen. Perry, and Sen. Mehlhaff

The meeting was called to order by Senator Mehlhaff

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 18TH

Moved by: Perry
Second by: Larson
Action: Prevailed by voice vote

SB 232 : impose a one-year moratorium on the construction or expansion of hyperscale data centers.

Presented by: Senator Taffy Howard (Handout(s) HO#1)

Proponents: Sara Steever, Self
John Kunnari, Self
Suzanne Pratt, Self
Erin Taggart, Self
Joseph White Eyes, Self
Opponents: Joe Fiala, Gov's Office of Econ Dev
Michael Lee Bockorny, Economic Development Professionals Association
Brett Koenecke, South Dakota Electric Utility Companies
Steve DelBianco, NetChoice
Austin Gross, Self
Nick Phillips, Applied Digital Corporation
Aaron Scheibe, Clean Grid Alliance
Kyle Peters, Gemini Family Office
T.J. Nelson, Big Watt Digital, LLC
Mitch Rave, Greater Sioux Falls Chamber of Commerce
Others: Steve Barnett, South Dakota Rural Electric Association

MOTION: AMEND SB 232

232A

On page 1, line 7, of the Introduced bill, after "center." insert "

The moratorium does not apply to any hyperscale data center that obtained all final government approval and required permits, and executed all utility interconnection agreements, before July 1, 2026."

On page 1, line 9, of the Introduced bill, delete ":

(1) For" and insert " for"

On page 1, line 11, of the Introduced bill, delete "; and" and insert ", which has two or more of the following:

(1) A size exceeding two hundred fifty thousand square feet;"

On page 1, line 12, of the Introduced bill, delete "Having a " and insert "A "

On page 1, line 12, of the Introduced bill, after "greater" insert ";

(3) An artificial intelligence model training or large-scale machine learning purpose; or

(4) A co-location configuration with undisclosed end-users"

Moved by: Perry
Second by: Pischke
Action: Prevailed by voice vote

MOTION: DEFER SB 232 TO THE 41ST LEGISLATIVE DAY

Moved by: Larson
Second by: Kolbeck (Steve)
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DO PASS SB 232 AS AMENDED

Moved by: Jensen (Kevin)
Second by: Karr
Action: Failed by Majority Members Elect (3-5-1-0)

Voting Yes: Jensen (Kevin), Karr, and Pischke

Voting No: Deibert, Kolbeck (Steve), Larson, Perry, and Mehlhaff

Excused: Voight

Revert to previous motion

MOTION: DEFER SB 232 TO THE 41ST LEGISLATIVE DAY

Moved by: Larson
Second by: Kolbeck (Steve)
Action: Failed by Majority Members Elect (4-4-1-0)

Voting Yes: Deibert, Kolbeck (Steve), Larson, and Mehlhaff

Voting No: Jensen (Kevin), Karr, Pischke, and Perry

Excused: Voight

MOTION: TO TABLE SB 232

Moved by: Larson
Second by: Kolbeck (Steve)
Action: Prevailed by Majority Members Elect (5-3-1-0)

Voting Yes: Deibert, Kolbeck (Steve), Larson, Perry, and Mehlhaff

Voting No: Jensen (Kevin), Karr, and Pischke

Excused: Voight

SB 239 : modify provisions relating to the reinvestment payment program, and relating to the purchasing of goods and services used by projects approved for the reinvestment payment program.

Presented by: Senator Casey Crabtree

Proponents: Michael Lee Bockorny, Economic Development Professionals Association
 Steve DelBianco, NetChoice (Handout(s) HO#2)
 Steve Willard, South Dakota Electric Utility Companies
 Nick Phillips, Applied Digital Corporation
 Ryan Budmayr, South Dakota Chamber of Commerce & Industry
 Aaron Scheibe, Clean Grid Alliance
 William M. Van Camp, South Dakota Retailers Association
 Mitch Rave, Greater Sioux Falls Chamber of Commerce

Opponents: Sara Steever, Self
 John Kunnari, Self
 Suzanne Pratt, Self

Others: Joe Fiala, Gov's Office of Econ Dev

MOTION: AMEND SB 239

239B

On the Introduced bill, delete everything after the enacting clause and insert:
 "

Section 1. That § 1-16G-56 be AMENDED:

1-16G-56. Terms used in §§ 1-16G-56 to 1-16G-68, inclusive, mean:

- (1) "Board," the Board of Economic Development;
- (2) "Commissioner," the commissioner of the Governor's Office of Economic Development;
- (3) "Completed the project" or "completion of the project," the first date when the project is operational;
- (4) "Construction date," the first date earth is excavated or a contractor has initiated work for the purpose of constructing a new or expanded facility or the first date new equipment is located on the project site or existing equipment is removed from the project site for the purpose of equipment upgrades, whichever occurs first;
- (5) "Cryptocurrency," a digital or virtual currency that is not issued by any central authority, is designed to function as a medium of exchange, and uses encryption technology to regulate the generation of units of currency, to verify fund transfers, and to prevent counterfeiting;
- (6) "Data center," any facility established for the purpose of processing, storage, retrieval, or communication of data;
- ~~(6)~~(7) "Department," the Department of Revenue;
- ~~(8)~~ "Direct payment permit," the permit issued by the department pursuant to § 10-46-67;
- ~~(7)~~(9) "Equipment upgrades," the installation of new equipment or the replacement or improvement of existing equipment, which is subject to the sales or use tax imposed by chapters 10-45 or 10-46 or contractor's excise tax imposed by chapters 10-46A or 10-46B. Equipment upgrades do not include the installation or replacement of consumable, wear, or maintenance items, or the replacement of failed equipment or components done on an ad hoc basis;
- ~~(8)~~(10) "GOED," the Governor's Office of Economic Development;

- ~~(9)~~(11) "New or expanded facility," a new building or structure, or the expansion, renovation, or retrofitting of an existing building or structure, which is subject to the contractor's excise tax imposed by chapters 10-46A or 10-46B;
- ~~(10)~~(12) "Person," any individual, firm, copartnership, joint venture, association, cooperative, nonprofit development corporation, limited liability company, limited liability partnership, corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit;
- ~~(11)~~(13) "Project," a new or expanded facility with a project cost which exceed twenty million dollars, or equipment upgrades with a project cost which exceed two million dollars. A project includes laboratory and testing facilities, manufacturing facilities, advanced telecommunications capability, data centers, power generation facilities, power transmission facilities, agricultural processing facilities, wind energy facilities, and facilities defined by GOED as targeted industries. A project does not include any building or structure:
- (a) Used predominantly for the sale of products at retail, other than the sale of electricity at retail, or the provision of advanced telecommunications capability, to individual consumers;
 - (b) Used predominantly for residential housing or transient lodging;
 - (c) Used predominantly to provide health care services;
 - (d) Used predominantly for the transportation or transmission of natural gas, oil, or crude oil by means of a pipeline; or
 - (e) That is not subject to ad valorem real property taxation or equivalent taxes measured by gross receipts;
- ~~(12)~~(14) "Project cost," the amount paid by the project owner in money, credits, property, or other consideration associated with a project including, without limitation, land, labor, materials, furniture, equipment, fees, or fixtures. Project cost does not include any amount paid as part of a new or expanded facility or equipment upgrades attributable to the processing, storage, retrieval, or communication of data related to cryptocurrency;
- (15) "Reinvestment payment permit," the permit issued pursuant to § 1-16G-60;
- (16) "Secretary," the secretary of the Department of Revenue;
- ~~(13)~~(17) "Wind energy facility," any new facility or facility expansion that:
- (a) Consists of a commonly managed integrated system of towers, wind turbine generators with blades, power collection systems, and electric interconnection systems, that convert wind movement into electricity, and is subject to the tax imposed by §§ 10-35-18 and 10-35-19; and
 - (b) The construction of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B; and
- ~~(14)~~(18) "Advanced telecommunications capability," without regard to any transmission media or technology, is high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology that provides a minimum actual download speed of at least twenty-five megabits per second and actual upload speed of at least three megabits per second.

Section 2. That a NEW SECTION be added to chapter 1-16G:

If the project cost for a new or expanded facility on or after April 1, 2026, exceeds the amount set pursuant to section 3 of this Act, a person may apply for a reinvestment

payment as provided in § 1-16G-57, subject to the following adjustments to the procedures in §§ 1-16G-56 to 1-16G-68, inclusive:

- (1) The application required in § 1-16G-58 must also include all information required by the department for a direct payment permit. The commissioner shall share the relevant portion of the application with the department on a confidential basis. The department shall review the information as a written application to the secretary for a direct payment permit;
- (2) Prior to the board's review of the application, the department must provide the commissioner with a determination of the person's eligibility for a direct payment permit. The appeal provisions of § 10-46-67 do not apply to an application qualified under this section. A person who is not eligible for a direct payment permit may not receive a reinvestment payment permit on the terms of this section;
- (3) Following its review pursuant to § 1-16G-59, the board may, by two-thirds majority, approve a combined reinvestment payment that is equal to or less than the South Dakota sales and use tax due on the initial project cost of a new or expanded facility, as well as the project costs of any future equipment upgrades in that same facility for a term not to exceed thirty years after the construction date;
- (4) A reinvestment payment permit issued to a project described in this section also operates as a direct payment permit for the project applicant;
- (5) In addition to the affidavit requirement in § 1-16G-61, the person holding a reinvestment payment permit must also submit an annual affidavit following completion of the project detailing the project cost of any equipment upgrades during that period;
- (6) The three-year eligibility period for project costs in § 1-16G-62 is extended to four years for the initial project cost of a project qualified under this section. In addition, the project will also have a separate eligibility period for the project cost of any future equipment upgrades running from completion of the project until expiration of the reinvestment payment permit;
- (7) A reinvestment payment permit extends to a person's lessee on the same terms and may also be assigned or transferred, but in each case only if the lessee, assignee, or transferee also holds a direct payment permit;
- (8) The secretary shall relieve a person holding a direct payment permit of its obligation to accrue and pay the taxes imposed by chapters 10-45 and 10-46, but only to the extent covered by a reinvestment payment permit. The commissioner must subtract any relief granted by the secretary from the reinvestment fund payment to which that person is otherwise entitled under § 1-16G-63; and
- (9) Except as provided in this section, all other provisions of §§ 1-16G-56 to 1-16G-68, inclusive, continue to apply to projects qualified under this section.

Section 3. That a NEW SECTION be added to chapter 1-16G:

The board shall adopt a policy setting the minimum project cost required for a project to qualify for purposes of section 2 of this Act. The board may adopt a new policy changing the minimum project cost, but may not do so within two years of setting a previous policy.

Section 4. That § 1-16G-59 be AMENDED:

1-16G-59. The Board of Economic Development shall review ~~an~~ a completed application and make a determination of whether the project is approved or disapproved

within ninety days of receiving the application. The applicant may, by written consent, extend the deadline provided in this section. The extension must provide a new deadline for the board's review and determination. The board shall consider the likelihood that the project would have occurred without the reinvestment payment. The board may approve a reinvestment payment that is equal to or less than South Dakota sales and use tax paid on the project costs.

The board shall consider the following factors when making that determination:

- (1) Has the county or municipality adopted a formula to reduce property taxation for the project for five years under the discretionary formula pursuant to § 10-6-137;
- (2) Has the county or municipality approved a tax increment financing district pursuant to chapter 11-9 for the area where the project will be located;
- (3) Has the municipality approved a municipal sales tax refund pursuant § 10-52-10;
- (4) Economic activity that may occur in the community, area, and state; and
- (5) Criteria established by rules promulgated pursuant to § 1-16G-67."

Moved by: Deibert
Second by: Perry
Action: Prevailed by voice vote

MOTION: DO PASS SB 239 AS AMENDED

Moved by: Kolbeck (Steve)
Second by: Perry
Action: Prevailed by Majority Members Elect (6-3-0-0)

Voting Yes: Deibert, Kolbeck (Steve), Larson, Pischke, Perry, and Mehlhaff

Voting No: Jensen (Kevin), Karr, and Voight

SB 235 : protect residents from increased utility costs and utility shortages caused by data centers, to clarify authority to regulate data centers, and to modify provisions pertaining to the purchasing of goods and services by a data center.

Presented by: Senator Casey Crabtree

Proponents: Michael Lee Bockorny, Economic Development Professionals Association
Nick Phillips, Applied Digital Corporation
Ryan Budmayr, South Dakota Chamber of Commerce & Industry
Mitch Rave, Greater Sioux Falls Chamber of Commerce
Brett Koenecke, South Dakota Electric Utility Companies
Steve DelBianco, NetChoice
Darla Pollman Rogers, South Dakota Rural Electric Association
Aaron Scheibe, Clean Grid Alliance

Opponents: John Kunnari, Self
Erin Taggart, Self
Michelle Oftedahl, Self

MOTION: AMEND SB 235

235A

On page 1, line 2, of the Introduced bill, after "centers," insert " and"

On page 1, line 2, of the Introduced bill, after "centers" delete ", and to modify provisions pertaining to the purchasing of goods and services by a data center"

On page 1, line 6, of the Introduced bill, after "Dakota:" delete "Section 1. This Act is known as the "Data Center Bill of Rights for Citizens. ""

On page 1, line 7, of the Introduced bill, after "Citizens."" delete "Section 2. That a NEW SECTION be added to chapter 10-45:

"

On page 1, line 8, of the Introduced bill, after "10-45:" delete "There are exempted from the provisions of this chapter, and the tax imposed by it, the gross receipts from a purchase made by a data center, as defined in section 4 of this Act."

On page 1, line 11, of the Introduced bill, after "Act." delete "Section 3. That a NEW SECTION be added to chapter 10-46:

"

On page 1, line 12, of the Introduced bill, after "10-46:" delete "There are exempted from the provisions of this chapter, and the tax imposed by it, the gross receipts from a purchase made by a data center, as defined in section 4 of this Act."

On page 1, line 17, of the Introduced bill, after "information" insert " with a total design load greater than one hundred megawatts"

On page 1, line 19, of the Introduced bill, after "all" insert " fair, just, and reasonable"

On page 1, line 21, of the Introduced bill, delete " may not:

(1) Increase fees, rates, or surcharges imposed on residential customers for the purpose of financing, offsetting, or subsidizing a data center's infrastructure costs, service demands, or utility consumption; or

(2) Allocate to residential customers any cost associated with the distribution, generation, or transmission infrastructure, or any other cost, attributable to the data center" and insert " shall establish and maintain separate terms and conditions for electric service applicable to a data center. The terms and conditions must require that the data center reimburse any provider of electricity for all costs fairly attributed to the data center for service demand and utility consumption, including costs incurred to serve the data center if the data center departs the system or materially reduces its load"

Moved by: Deibert

Second by: Larson

Action: Prevailed by voice vote

MOTION: DEFER SB 235 TO THE 41ST LEGISLATIVE DAY

Moved by: Karr

Second by: Perry

Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DO PASS SB 235 AS AMENDED

Moved by: Kolbeck (Steve)

Second by: Deibert

Action: Failed by Majority Members Elect (4-5-0-0)

Voting Yes: Deibert, Kolbeck (Steve), Larson, and Mehlhaff

Voting No: Jensen (Kevin), Karr, Pischke, Voight, and Perry

Revert to previous motion

MOTION: DEFER SB 235 TO THE 41ST LEGISLATIVE DAY

Moved by: Karr
Second by: Perry
Action: Prevailed by Majority Members Elect (5-4-0-0)

Voting Yes: Jensen (Kevin), Karr, Pischke, Voight, and Perry

Voting No: Deibert, Kolbeck (Steve), Larson, and Mehlhaff

SB 234 : modify provisions pertaining to the purchasing of goods and services related to data center operations.

Presented by: Senator Casey Crabtree

Proponents: Michael Lee Bockorny, Economic Development Professionals Association
Nick Phillips, Applied Digital Corporation
Steve DelBianco, NetChoice

Opponents: John Kunnari, Self
Michelle Oftedahl, Self

MOTION: AMEND SB 234

234A

On page 1, line 2, of the Introduced bill, after "operations" insert ", to protect residents from increased utility costs and utility shortages caused by data centers, and to clarify authority to regulate data centers"

On the Introduced bill, delete everything after the enacting clause and insert:
"

Section 1. That § 1-16G-56 be AMENDED:

1-16G-56. Terms used in §§ 1-16G-56 to 1-16G-68, inclusive, mean:

- (1) "Board," the Board of Economic Development;
- (2) "Commissioner," the commissioner of the Governor's Office of Economic Development;
- (3) "Completed the project" or "completion of the project," the first date when the project is operational;
- (4) "Construction date," the first date earth is excavated or a contractor has initiated work for the purpose of constructing a new or expanded facility or the first date new equipment is located on the project site or existing equipment is removed from the project site for the purpose of equipment upgrades, whichever occurs first;
- (5) "Cryptocurrency," a digital or virtual currency that is not issued by any central authority, is designed to function as a medium of exchange, and uses encryption technology to regulate the generation of units of currency, to verify fund transfers, and to prevent counterfeiting;

- (6) "Data center," any facility established for the purpose of processing, storage, retrieval, or communication of data;
- ~~(6)~~(7) "Department," the Department of Revenue;
- (8) "Direct payment permit," the permit issued by the department pursuant to § 10-46-67;
- ~~(7)~~(9) "Equipment upgrades," the installation of new equipment or the replacement or improvement of existing equipment, which is subject to the sales or use tax imposed by chapters 10-45 or 10-46 or contractor's excise tax imposed by chapters 10-46A or 10-46B. Equipment upgrades do not include the installation or replacement of consumable, wear, or maintenance items, or the replacement of failed equipment or components done on an ad hoc basis;
- ~~(8)~~(10) "GOED," the Governor's Office of Economic Development;
- ~~(9)~~(11) "New or expanded facility," a new building or structure, or the expansion, renovation, or retrofitting of an existing building or structure, which is subject to the contractor's excise tax imposed by chapters 10-46A or 10-46B;
- ~~(10)~~(12) "Person," any individual, firm, copartnership, joint venture, association, cooperative, nonprofit development corporation, limited liability company, limited liability partnership, corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit;
- ~~(11)~~(13) "Project," a new or expanded facility with a project cost which exceed twenty million dollars, or equipment upgrades with a project cost which exceed two million dollars. A project includes laboratory and testing facilities, manufacturing facilities, advanced telecommunications capability, data centers, power generation facilities, power transmission facilities, agricultural processing facilities, wind energy facilities, and facilities defined by GOED as targeted industries. A project does not include any building or structure:
- (a) Used predominantly for the sale of products at retail, other than the sale of electricity at retail, or the provision of advanced telecommunications capability, to individual consumers;
 - (b) Used predominantly for residential housing or transient lodging;
 - (c) Used predominantly to provide health care services;
 - (d) Used predominantly for the transportation or transmission of natural gas, oil, or crude oil by means of a pipeline; or
 - (e) That is not subject to ad valorem real property taxation or equivalent taxes measured by gross receipts;
- ~~(12)~~(14) "Project cost," the amount paid by the project owner in money, credits, property, or other consideration associated with a project including, without limitation, land, labor, materials, furniture, equipment, fees, or fixtures. Project cost does not include any amount paid as part of a new or expanded facility or equipment upgrades attributable to the processing, storage, retrieval, or communication of data related to cryptocurrency;
- (15) "Reinvestment payment permit," the permit issued pursuant to § 1-16G-60;
- (16) "Secretary," the secretary of the Department of Revenue;
- ~~(13)~~(17) "Wind energy facility," any new facility or facility expansion that:
- (a) Consists of a commonly managed integrated system of towers, wind turbine generators with blades, power collection systems, and electric interconnection systems, that convert wind movement into electricity, and is subject to the tax imposed by §§ 10-35-18 and 10-35-19; and
 - (b) The construction of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B; and

- ~~(14)~~(18) "Advanced telecommunications capability," without regard to any transmission media or technology, is high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology that provides a minimum actual download speed of at least twenty-five megabits per second and actual upload speed of at least three megabits per second.

Section 2. That a NEW SECTION be added to chapter 1-16G:

If the project cost for a new or expanded facility on or after April 1, 2026, exceeds the amount set pursuant to section 3 of this Act, a person may apply for a reinvestment payment as provided in § 1-16G-57, subject to the following adjustments to the procedures in §§ 1-16G-56 to 1-16G-68, inclusive:

- (1) The application required in § 1-16G-58 must also include all information required by the department for a direct payment permit. The commissioner shall share the relevant portion of the application with the department on a confidential basis. The department shall review the information as a written application to the secretary for a direct payment permit;
- (2) Prior to the board's review of the application, the department must provide the commissioner with a determination of the person's eligibility for a direct payment permit. The appeal provisions of § 10-46-67 do not apply to an application qualified under this section. A person who is not eligible for a direct payment permit may not receive a reinvestment payment permit on the terms of this section;
- (3) Following its review pursuant to § 1-16G-59, the board may, by two-thirds majority, approve a combined reinvestment payment that is equal to or less than the South Dakota sales and use tax due on the initial project cost of a new or expanded facility, as well as the project costs of any future equipment upgrades in that same facility for a term not to exceed thirty years after the construction date;
- (4) A reinvestment payment permit issued to a project described in this section also operates as a direct payment permit for the project applicant;
- (5) In addition to the affidavit requirement in § 1-16G-61, the person holding a reinvestment payment permit must also submit an annual affidavit following completion of the project detailing the project cost of any equipment upgrades during that period;
- (6) The three-year eligibility period for project costs in § 1-16G-62 is extended to four years for the initial project cost of a project qualified under this section. In addition, the project will also have a separate eligibility period for the project cost of any future equipment upgrades running from completion of the project until expiration of the reinvestment payment permit;
- (7) A reinvestment payment permit extends to a person's lessee on the same terms and may also be assigned or transferred, but in each case only if the lessee, assignee, or transferee also holds a direct payment permit;
- (8) The secretary shall relieve a person holding a direct payment permit of its obligation to accrue and pay the taxes imposed by chapters 10-45 and 10-46, but only to the extent covered by a reinvestment payment permit. The commissioner must subtract any relief granted by the secretary from the reinvestment fund payment to which that person is otherwise entitled under § 1-16G-63; and
- (9) Except as provided in this section, all other provisions of §§ 1-16G-56 to 1-16G-68, inclusive, continue to apply to projects qualified under this section.

Section 3. That a NEW SECTION be added to chapter 1-16G:

The board shall adopt a policy setting the minimum project cost required for a project to qualify for purposes of section 2 of this Act. The board may adopt a new policy changing the minimum project cost, but may not do so within two years of setting a previous policy.

Section 4. That § 1-16G-59 be AMENDED:

1-16G-59. The Board of Economic Development shall review ~~an~~ a completed application and make a determination of whether the project is approved or disapproved within ninety days of receiving the application. The applicant may, by written consent, extend the deadline provided in this section. The extension must provide a new deadline for the board's review and determination. The board shall consider the likelihood that the project would have occurred without the reinvestment payment. The board may approve a reinvestment payment that is equal to or less than South Dakota sales and use tax paid on the project costs.

The board shall consider the following factors when making that determination:

- (1) Has the county or municipality adopted a formula to reduce property taxation for the project for five years under the discretionary formula pursuant to § 10-6-137;
- (2) Has the county or municipality approved a tax increment financing district pursuant to chapter 11-9 for the area where the project will be located;
- (3) Has the municipality approved a municipal sales tax refund pursuant § 10-52-10;
- (4) Economic activity that may occur in the community, area, and state; and
- (5) Criteria established by rules promulgated pursuant to § 1-16G-67.

Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 49:

For purposes of this chapter, "data center" means a centralized repository for the dissemination, management, processing, and storage of electronic data and information with a total design load greater than one hundred megawatts.

Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 49:

The operator of a data center shall pay for all fair, just, and reasonable costs associated with the provision of electricity to the data center.

A provider of electricity shall establish and maintain separate terms and conditions for electric service applicable to a data center. The terms and conditions must require that the data center reimburse any provider of electricity for all costs fairly attributed to the data center for service demand and utility consumption, including costs incurred to serve the data center if the data center departs the system or materially reduces its load.

Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 49:

The state may not preempt or otherwise limit the authority of the governing body of a county, municipality, or other political subdivision to adopt ordinances and resolutions limiting, prohibiting, or otherwise regulating the construction, development, or operation of data centers.

Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 49:

Prior to commencing operation in this state, the operator of a data center shall provide notice of projected water consumption to each local water provider in the area in which the data center is proposed to be located. Each water provider receiving notice pursuant to this section shall determine whether the data center's projected water consumption is compatible with the local water supply and issue that determination in writing to the operator. The operator shall present a copy of each notice and determination to the Board of Water Management.

If the board receives a determination from each applicable water provider that the data center's projected water consumption is compatible with the local water supply, the board must issue, to the operator and the general public, a written statement that the operator has satisfied the requirements of this section.

Notwithstanding the board's issuance of a written statement pursuant to this section, the data center may not consume an amount of the local water supply exceeding limits established by order of the board, after allocation to residential and essential public services. In establishing allocation limits under this section, the board shall seek to ensure water availability and prevent disproportionate use of water by data centers.

Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 49:

The operator of a data center that is authorized to operate in this state pursuant to this chapter, shall, at the time and in the manner prescribed by the Board of Water Management, submit to the board a semi-annual report regarding the data center's water use. The report must contain average usage data and certify compliance with this section. The board shall make the usage data contained in the report available to the public."

Moved by: Deibert
Second by: Perry
Action: Prevailed by voice vote

MOTION: DEFER SB 234 TO THE 41ST LEGISLATIVE DAY

Moved by: Pischke
Second by: Jensen (Kevin)
Action: Prevailed by Majority Members Elect (5-4-0-0)

Voting Yes: Jensen (Kevin), Karr, Pischke, Voight, and Perry

Voting No: Deibert, Kolbeck (Steve), Larson, and Mehlhaff

MOTION: ADJOURN

Moved by: Deibert
Second by: Larson
Action: Prevailed by voice vote

Doug Mortenson, Committee Secretary

/s/ JIM MEHLHAFF
Jim Mehlhaff, Chair